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Attorneys for Plaintiffs
MICHAEL EGAN and
BRIAN EGAN, a Minor,
By and through his
Guardian Ad Litem
MICHAEL EGAN

FILED
DISTRICT COURT OF GUAM

FEB 25 2002

MARY L. MURPHY
CLERK OF COURT

IN THE U.S. DISTRICT COURT
OF GUAM

MICHAEL EGAN and BRIAN EGAN, a Minor,
by and through His Guardian Ad Litem
MICHAEL EGAN

CIVIL CASE NO. 02-00007

Plaintiffs,

vs.

UNITED STATES OF AMERICA,

Defendant.

COMPLAINT FOR DAMAGES
FOR NEGLIGENCE PURSUANT
TO THE FEDERAL TORT
CLAIMS ACT

NATURE OF THE ACTION

This is an action for negligence under The Federal Tort Claims Act for damage
to property.

JURISDICTION

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1346(b) and 2671, et. Seq.

2. Before this action was instituted, the claim(s) set forth herein were presented to and constructively denied by the Air Force and this suit was commenced as the result thereof. Said claims are attached hereto and incorporated herein by reference.

PARTIES

3. Plaintiff was and is a resident of Guam at all relevant times herein.

4. At all times material herein, Defendant UNITED STATES OF AMERICA (hereafter "USA") through its agents, servants, employees and/or service persons was and is operating a motor vehicle within this judicial district.

5. At all times mentioned herein, Defendant's employees were acting within the course and scope of their employment, and as such, Defendant USA is fully liable for all the acts of it's employees under the doctrine of Respondeat Superior and/or through the Federal Tort Claims Act.

6. Plaintiffs are informed and believe and thereupon allege, that each of said Defendants and its employees are jointly and severally liable as the principle, officer, agent, master, servant, employer, employee and partner of each of the other Defendants and was in doing the acts complained of herein, acting within the scope of his, her or its said agency, duties, employment or partnership.

BACKGROUND

7. On or about November 9, 2000 at 1000 p.m., Plaintiff MICHAEL EGAN was driving a motor vehicle which was struck by a military vehicle owned by the United States Air Force and driven by E-3 Marcus A. Coloncolon. Front-seat passenger in Plaintiff's vehicle was his minor son, Brian Egan.

PLAINTIFF'S CAUSE OF ACTION FOR NEGLIGENCE AGAINST DEFENDANT

8. Plaintiff incorporates by reference paragraphs 1 through 7, above.

9. At all relevant times mentioned herein, Defendant USA employed Marcus Coloncolon the operator who was driving a 1999 Chevrolet Lumina, license plate number Air Force 9913-149 which at all times mentioned herein was owned by Defendant USA.

10. On or about November 9, 2000 at approximately 10:09 p.m. p.m., on Route 1 near the entrance to Andersen Air Force Base, Yigo, Guam Defendant USA's employee negligently impacted and struck the vehicle driven and owned by Plaintiffs.

11. As a direct and proximate result of the negligence of Defendant's employee, Plaintiffs sustained severe personal bodily injury damages in the accident.

12. As a further direct and proximate result of the negligence of Defendant's employee the Plaintiffs were and are forced to endure severe pain and suffering, loss of enjoyment of life, mental and emotional injury and distress, lost earnings and medical treatments and expenses.

13. As a further direct and proximate result of the negligence of Defendant's employee the Plaintiffs will require future medical treatments and expenses with the attendant pain and suffering, loss of enjoyment of life, mental and emotional injury and distress, and lost earnings.

14. As a direct and proximate result of Defendant USA's employee's negligence, the Plaintiffs incurred damages to their vehicle in an amount to be determined at trial.

16. Based on the above, all Plaintiffs have been damaged in an amount to be determined at trial.

PRAYER

WHEREFORE, Plaintiff prays for relief against the Defendant as follows:

1. For damages in an amount to be determined at trial.
2. For costs of suit, attorney fees, and post-judgment interest;

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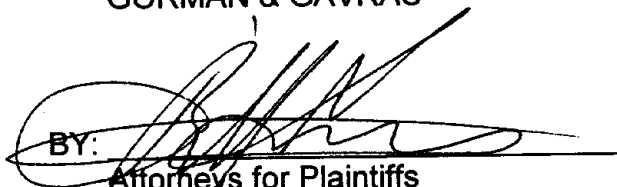
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3. For such other and further relief as the Court deems just and proper.

Respectfully Submitted,

Dated: February 22, 2002

GORMAN & GAVRAS

BY: 
Attorneys for Plaintiffs
MICHAEL EGAN and
BRIAN EGAN, a Minor,
By and through his
Guardian Ad Litem
MICHAEL EGAN

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008 EXPIRES 4-30-88	
1. Submit To Appropriate Federal Agency: Department of the Air Force 36 ABW/JA Unitel4003 Box 28 APO, AP 96543			2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) Claimant: Michael Egan c/o Law Offices Claimant's Attorney: A. Alexander Gorman Address: 118-A Chalan Santo Papa Hagatna, GU 96910		
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 7-1-57	5. MARITAL STATUS Married	6. DATE AND DAY OF ACCIDENT 11-9-00, Thursday	7. TIME (A.M. OR P.M.) 10:00 pm	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) Claimant driving North on Rt. #1, by Anderson Air Force Base in Guam when automobile traveling south, same location, negligently made a left turn and collided with claimant's vehicle. Claimant was violently thrown in the interior of his vehicle.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code) Claimant is owner.					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) Right front and side of claimant's automobile suffered severe damage. See attached for further details. Vehicle may be inspected at KWB Auto Repair in Harmon. '94 Chevy Cavalier; Towing Charge: \$150.00					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. Injury to wrists, shoulders, 3rd Right Knuckle, back and fingers.					
11. WITNESSES					
NAME		ADDRESS (Number, street, city, State, and Zip Code)			
SEE ATTACHED.		SEE ATTACHED.			
12. (See instructions on reverse) AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE \$5,713.63	12b. PERSONAL INJURY \$500,000.00	12c. WRONGFUL DEATH NONE	12d. TOTAL (Failure to specify may cause forfeiture of your rights.) \$505,713.63		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) A. Alexander Gorman, Esq. for Michael Egan			13b. Phone number of signatory (671) 472-2302	14. DATE OF CLAIM 12-1-00	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or imprisonment for not more than 5 years or both. (See 18 U.S.C. 287, 1001.)		

95-107

NSN 7540-00-634-4046

Previous editions not usable.

 STANDARD FORM 95 (Rev. 7-85)
 PRESCRIBED BY DEPT. OF JUSTICE
 28 CFR 14.2

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.
A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims.
C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid".

INSTRUCTIONS

Complete all items - Insert the word NONE where applicable

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item #1 on the reverse side. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplemental regulations also. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with said claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item 12 of this form.

The amount claimed should be substantiated by competent evidence as follows:
(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

(b) In support of claims for damage to property which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to completely execute this form or to supply the requested material within two years from the date the allegations accrued may render your claim "invalid". A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

Failure to specify a sum certain will result in invalid presentation of your claim and may result in forfeiture of your rights.

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? ☒ Yes, If yes, give name and address of insurance company (Number, street, city, State, and Zip Code) and policy number. ☐ No

Calvo's Insurance
P.O. Box 822
Agana, GU 96932-0822

16. Have you filed claim on your insurance carrier in this instance, and if so, is it full coverage or deductible?

NONE

17. If deductible, state amount

N/A

18. If claim has been filed with your carrier, what action has your insurer taken or proposes to take with reference to your claim? (It is necessary that you ascertain these facts)

N/A

19. Do you carry public liability and property damage insurance? ☐ Yes, If yes, give name and address of insurance carrier (Number, street, city, State, and Zip Code) ☐ No

NONE

11. WITNESSES

1. Marcos A. Coloncolon – Bldg. 25-016, Rm. 15, AAFB, Yigo, Guam 96929.
2. Kristin Marquez – 1449A Machanao, Dededo, Guam 96912.
3. Brian Egan – 164 Mapola Loop, Dededo, Guam 96912.
4. Jerry San Agustin - #5 S. Okudu St., Dededo, Guam 96912.
5. Luis Cabuhat – B-39 Villa Rosario Condo, Guam.
6. Glenn Santos, II – 151 Gaogao Court, Dededo, Guam 96912.

MAILED 1-26-01
Rene

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit To: Appropriate Federal Agency DEPARTMENT OF THE AIR FORCE 36 ABW/JA UNIT 14003 BOX 28 APO AP 96543 OFFICIAL BUSINESS		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) Claimant: Michael J. Egan for his minor son, Brian L. Egan - c/o Law Offices Claimants Atty: A. Alexander Gorman Address: 118-A Chalan Santo Papa, Agana			
3. TYPE OF EMPLOYMENT <input checked="" type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH 25 Oct 84	5. MARITAL STATUS Unmarried	6. DATE AND DAY OF ACCIDENT November 9, 2000	7. TIME (A.M. OR P.M.) 10pm	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.) Claimant riding with father, Michael Egan, North on Route #1, by Anderson Airforce Base in Guam when automobile traveling South same location, negligently made left turn and collided with Claimant's father's car. Claimant was violently thrown in the interior of said vehicle.					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code) same					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side.) Right, front and side of vehicle suffered severe damage. Vehicle taken to KWB Auto Repair. Towing charge \$150.00. '94 Chevy Cavalier See attached copies for further details.					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT. Lower back pain.					
11. WITNESSES					
NAME		ADDRESS (Number, street, city, State, and Zip Code)			
See attached		See Attached			
12. (See instructions on reverse)		AMOUNT OF CLAIM (in dollars)			
12a. PROPERTY DAMAGE None	12b. PERSONAL INJURY \$50,000.00	12c. WRONGFUL DEATH None	12d. TOTAL (Failure to specify may cause forfeiture of your rights.)		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.) A. Alexander Gorman, Esq., for Michael J. Egan		13b. Phone number of signatory (671) 472-2302		14. DATE OF CLAIM 1-25-01	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of \$2,000, plus double the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine of not more than \$10,000 or Imprisonment for not more than 6 years or both. (See 18 U.S.C. 287, 1001.)			

95-100

Please use only one side.

NSN 7540-00-834-4048

STANDARD FORM 95 (Rev. 7-85)
PRESCRIBED BY DEPT. OF JUSTICE
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INSTRUCTIONS

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Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item 21 on the reverse side. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplemental regulations also. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with said claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item 12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

(b) In support of claims for damage to property which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to completely execute this form or to supply the requested material within two years from the date the allegations accrued may render your claim "invalid". A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

Failure to specify a sum certain will result in invalid presentation of your claim and may result in forfeiture of your rights.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden,

to Director, Tort Branch
 Civil Division
 U.S. Department of Justice
 Washington, DC 20530

and to the
 Office of Management and Budget
 Paperwork Reduction Project (1105-0008)
 Washington, DC 20503

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

16. Do you carry accident insurance? ☐ Yes, if yes, give name and address of insurance company (Number, street, city, State, and Zip Code) and policy number. ☐ No

Calvo's Insurance

PO Box 822

Hagatna, Guam 96932-0822

18. Have you filed claim on your insurance carrier in this instance, and if so, is it full coverage or deductible?

NO

17. If deductible, state amount.

N/A

19. If claim has been filed with your carrier, what action has your insurer taken or proposes to take with reference to your claim? (It is necessary that you ascertain these facts)

N/A

19. Do you carry public liability and property damage insurance? ☐ Yes, if yes, give name and address of insurance carrier (Number, street, city, State, and Zip Code) ☐ No

None

SF 85 (Rev. 7-85) SACI

U.S. GPO: 1997-426-842/85005

11. WITNESSES

1. Marcos A. Coloncolon – Bldg. 25-016, Rm. 15, AAFB, Yigo, Guam 96929
2. Kristin Marquez – 1449A Machanao, Dededo, Guam 96912
3. Michael Egan – 164 Mapola Loop, Dededo, Guam 96912
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